

**V.**

**GOVERNMENT RESPONSE TO  
DEFENSE NOTICE OF INTENT  
TO DISCLOSE CLASSIFIED  
INFORMATION UNDER MRE 505(h),  
DATED 17 AUGUST 2012**

Information from the document beginning on BATES 00505061


After reviewing the PowerPoint presentation, the United States is unclear what information the defense is referring to in paragraph 9 of its notice. *See* Def. Not. at 3. The United States requests the defense provide further clarity.

### **SPECIFIC OBJECTIONS TO NOTICE**


In paragraph 11 of the defense notice, the defense has provided notice of its intent to disclose the “classified information that forms the basis of the current charges and specifications.” Def. Not. at 3. To the extent the defense intends to disclose classified information outside the content of the charged documents or videos that serve as the basis for Specifications 2, 3, 5, 7, 9, 10, 11, 13, 14, and 15 of Charge II, the United States objects that the defense notice in this paragraph is inadequate. *See* Appellate Exhibit (AE) CCIV (articulating the Government’s objections to “general” notice). Further, the United States specifically objects to the notice provided in paragraph 11 with respect to “any classified information contemplated by the allegations contained in Charge III.” Def. Not. at 3. A general statement “of the areas about which evidence may be introduced” is not sufficient. MRE 505(h)(3); *see* AE CCIV.

### **NOTICE OF WITNESSES**

Per the agreement reached between the parties at the Article 39(a) session on 19 July 2012, as well as the Protective Order dated 16 March 2012, the defense must provide notice of the witnesses it intends to elicit classified information from during trial at the time it files a witness list with the Court. In accordance with the Protective Order, the defense must also provide notice of classified information it intends to elicit from potential witnesses during witness interviews, if any. *See* AE XXXII.

  
JODEAN MORROW  
CPT, JA  
Assistant Trial Counsel

I certify that I served or caused to be served a true copy of the above on Mr. David E. Coombs, Civilian Defense Counsel, via electronic mail, on 22 August 2012.

  
JODEAN MORROW  
CPT, JA  
Assistant Trial Counsel